
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Chang et al.

Attorney Docket No.: DKTRP002

Application No.: 10/086,602

Examiner: Nguyen, Steven H D

Filed: March 4, 2002

Group: 2619

Title: APPARATUS AND METHOD FOR
INTEGRATED VOICE GATEWAY

Confirmation No.: 3174

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on November 7, 2008.

Signed: _____/Laura M. Dean/
Laura M. Dean

**TRANSMITTAL OF REPLY BRIEF
IN RESPONSE TO EXAMINER'S ANSWER**

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Sir:

Transmitted herewith is the Reply Brief In Response To Examiner's Answer mailed October 15, 2008.

This reply brief is being filed within two (2) months of the mailing date of the Examiner's Answer.

Applicant believes that no extension of time is required. If an additional extension of time is required, however, please consider this a petition therefor.

☒ Charge any additional fees or credit any overpayment to Deposit Account No. 50-4481, (Order No. DKTRP002).

Respectfully submitted,
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex Parte CHANG

Application for Patent: 10/086,602

Filed: March 4, 2002

Group Art Unit: 3174

Examiner: NGUYEN, Steven H D

For:

APPARATUS AND METHOD FOR INTEGRATED VOICE GATEWAY

REPLY BRIEF

DKTRP002

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Signed: _____/Laura M. Dean/
Laura M. Dean

1. REAL PARTY IN INTEREST

The real parties in interest are:

DKR SoundShore Oasis Holding Fund Ltd.
c/o Codan Trust Companies (Cayman) Limited
Century Yard, Cricket Square
Hutchins Drive
P.O. Box 2681 GT
George Town, Grand Cayman
KY1-1111
Cayman Islands

and

Trinad Capital Master Fund, Ltd.
c/o Charlie Bentz, CFO
2121 Avenue of the Stars, Suite 2550
Los Angeles, CA 90035

2. RELATED APPEALS AND INTERFERENCES

There is a related appeal in application no. 10/086,268.

3. STATUS OF CLAIMS

The following claims have been rejected and appealed: claims 20-27 and 29-38.

The following claims have been cancelled: 1-19 and 28.

The claims on appeal are reproduced below in the Appendix at Section 9 of this Appeal Brief.

4. STATUS OF AMENDMENTS

No amendments were filed subsequent to final rejection.

5. ARGUMENTS

Applicant agrees with the Examiner that Krishnaswamy discloses a database. What Applicant contends, though, and which contention the Examiner appears to ignore, is that the “enterprise directory” recited in the claims cannot be properly construed as a database, such as the database disclosed by Krishnaswamy.

Generally, Applicant’s argument is that one of ordinary skill in the art, reading Applicant’s specification and knowing the content of references from around the time

of the filing of the present patent application, would understand that the term “enterprise directory” has its “plain meaning” and “ordinary and customary meaning,” which does not include a general purpose database such as disclosed by Krishnaswamy.

To determine what is the “plain meaning” and “ordinary and customary meaning” of a claim term, in many situations it is entirely proper to rely on information that is not disclosed in the specification. These situations are discussed fully in the Appeal Brief, and apply to the present circumstances.

The Examiner refers, at page 13 of the Examiner’s Answer, to the Applicant’s arguments in the Appeal Brief regarding the alternate embodiments set forth in [0092] and [0093] of Applicant’s specification. The Examiner seems to consider that Applicant is attempting to read the alternate embodiments into the claims. In fact, Applicant is arguing precisely the opposite, i.e., that the alternate embodiments, including “databases” are clearly distinguished in the specification from an “enterprise directory” embodiment (which *is* explicitly recited in the claims). This, along with all the arguments presented in the Appeal Brief, clearly demonstrates that the term “enterprise directory” does not encompass a general purpose “database” such as is disclosed by Krishnaswamy.

At page 14 of the Examiner’s Answer, the Examiner contends that Applicant has made a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references, in violation of 37 CFR 1.111(b). The contention of the Examiner could not be more incorrect.

It is well-settled (as discussed extensively in Applicant’s Appeal Brief) that the first step in determining whether a claim is patentable is to determine the meaning of the claim language. See, for example, MPEP 2111 (entitled “Claim Interpretation; Broadest Reasonable Interpretation”) and the MPEP sections following. Without such a claim interpretation, it is impossible to properly determine whether a reference discloses the claimed subject matter. Applicant has argued what is a proper claim interpretation, and then argued that, given this proper claim interpretation, the references do not disclose what is claimed.

The Examiner has further stated, at page 14 of the Examiner’s Answer, that Applicant attacks the references individually to show non-obviousness. In arguing that the Examiner has not made a proper *prima facie* case of obviousness, Applicant has not attacked the references at all! Rather, Applicant has first argued that the Examiner has not made a proper *prima facie* case of obviousness, even under the

KSR case. Applicant has then argued that extensive evidence of non-obviousness has been provided, to refute the Examiner's allegations of obviousness. (Of course, Applicant has argued that Krishnaswamy does not disclose an "enterprise directory" as recited in the claims, but such an "attack" on an individual reference is entirely allowable and appropriate).

6. CONCLUSION

In view of the foregoing and the arguments set forth in the Appeal Brief, it is respectfully submitted that the Examiner's rejections of claims 20-27 and 29-38 are erroneous. Accordingly, the rejections should be reversed.

Respectfully submitted,
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